

Message Text

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ACTION DLOS-06

INFO OCT-01 EA-07 IO-13 ISO-00 FEA-01 ACDA-07 AGR-05

AID-05 CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00

DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00

H-02 INR-07 INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01

OES-06 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06

SAL-01 AF-08 ARA-06 EUR-12 NEA-10 /158 W
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P R 152029Z SEP 76

FM USMISSION USUN NY

TO SECSTATE WASHDC PRIORITY 9158

INFO AMEMBASSY MANILA

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FROM: LOS DEL

E.O. 11652: N/A

TAGS: PLOS

SUBJECT: COMMITTEE II- INFORMAL MEETINGS ON OUTSTANDING ISSUES

NOT UNDER DISCUSSION IN SPECIFIC NEGOTIATING

GROUPS- SEPT . 9-10

1. COMMITTEE II CHAIRMAN AGUILAR HELD MEETINGS ON SEPTEMBER 9-10 TO DEAL WITH OUTSTANDING ISSUES OF CONCERN NOT BEING DISCUSSED IN NEGOTIATING GROUPS. LENGTHLY DEBATE, PRIMARILY CONCERNING COASTAL STATE POLLUTION STANDARD SETTING IN TERRITORIAL SEA(ART. 20(2)), REGIME OF ARCHIPELAGOES, ENCLOSED AND SEMI-ENCLOSED SEAS, BREADTH OF TERRITORIAL SEA, AND BASE-LINES, HAD NO CONCLUSIVE RESULTS. CHAIRMAN AGUILAR STATED THAT HE HAD NO MANDATE TO REVISE TEXT, AND SUGGESTED THAT ANY CONSENSUS REACHED BY INTERESTED

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DELEGATIONS WHICH MIGHT DECIDE TO MEETIN IN INFORMAL

GROUPS ON PARTICULAR SUBJECTS MIGHT BE PRESENTED TO HIM.
(COMMENT: IT IS NOT A LL CLEAR AS TO HOW HE INTENDS
TO PROCEED WITH COMMITTEE WORK).

2. CANADA OPENED DEBATE BY PROPOSING IN ART. 20(2)
THAT FOLLOWING BE DELETED: QUOTE OR MATTERS REGULATED
BY GENERALLY ACCEPTED INTERNATIONAL RULES UNLESS
SPECIFICALLY AUTHORIZED BY SUCH RULES. UNQUOTE.
DELETION OF THIS PHRASE WAS SUPPORTED BY IRAN, NEW
ZEALAND (PREFERS TO DELETE ENTIRE PARA. 2), ICELAND,
MALAYSIA, SPAIN, URUGUAY, MEXICO, PAPAU NEW GUINEA, PERU,
AND POSSIBLY TUNISIA. THE FOLLOWING EITHER SPECIFICALLY
OPPOSED THE CANADIAN AMENDMENT OR SUPPORTED THE RSNT AS
DRAFTED : JAPAN, LIBERIA, POLAND, DENMARK, BULGRAIA,
FRG, GREECE, USSR, ITALY, BELGIUM AND CUBA.

3. TURKEY INTERVENED ON TWO POINTS:
-) ART. 2 (BREADTH OF TERRITORIAL SEA) SHOULD
REFLECT GEOGRAPHIC CHARACTERISTICS OF CERTAIN AREAS,
I.E., IN AGEAN TERRITORIAL SEA, BREADTH COULD BE LESS
THAN 12 MILES.
B) ARTS. 129-130 (ENCLOSED AND SEMI-ENCLOSED SEAS)
SHOULD TAKE INTO CONSIDERATION GEOGRAPHIC CHARACTERISTICS
AND THE RELATION TO GENERAL PRINCIPLES IN LOS. TURKEY
WIAS THWARTED BY FRG, IRAN AND NIGERIA; AND OPPOSED BY
GREECE AND DENMARK.

4. BANGLADESH INTRODUCED AGAIN THEIR AMENDMENT TO USE
DEPTH METHOD FOR DETERMINING BASE LINE DUE TO THEIR
CONSTANTLY CHANGING COASTLINE. PROPOSAL WAS AS
FOLLOWS:
PROPOSED AMENDMENT TO PARA. 2 FO
ARTICLE 6 OF DRSNT
QUOTE. WHERE BECAUSE OF THE PRESENCE OF A DELTA
AND OTHER NATURAL CONSITIONS THE WATERS ADJACENT TO THE
COAST ARE MARKED BY CONTINUOUS FLUVIAL EROSION
AND SEDIMENTATION CREATING A HIGHLY UNSTABLE BASELINE,
THE BASELINE MAY BE DELIMITED BY A STRAIGHT LINE OR
SERIES OF STRAIGHT LINES CONNECTING APPROPRIATE
POINTS ON SUCH ADJACANT COASTAL WATERS. UNQUOTE.
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THIS PROPOSAL WAS SUPPORTED BY NEPAL, IRAN, PRC, EGYPT,
TUNISIA, SAUDI ARABIA, INDONESIA, PAKISTAN, ALGERIA,
AND BERMA. INDIA OPPOSED STRONGLY.

5. ECUADOR INTERVENED TO PRESENT AGAIN A PROPOSAL
TO ACCOMMODATE THOSE STATES WITH EXISTING NATIONAL
LEGISLATION REGARDING TERRITORIAL SEAS IN EXCESS OF 12
MILES, I.E., AREA WOULD BE CALLED QUOTE TERRITORIAL SEA

UNQUOTE BUT RIGHTS AND DUTIES WOULD CONFORM TO TREATY. ECUADOR WAS SUPPORTED BY BENIN, PRC,PANAMA, URUGUAY, BRAZIL, PHILIPPINES AND PEUR. ECUADOR, SUPPORTED BY PERU AND BRAZIL, ALSO PROPOSED THAT A PROVISION BE INCLUDED IN THE TREATY TO PROTECT THE GALAPAGO ISLANDS BECAUSE OF THEIR UNIQUE SCIENTIFIC INTEREST. THEY WILL PREPARE AND SUBMIT THESE ARTICLES AT AN UNSPECIFIED LATER TIME. THEY ALSO NOTED THAT 20 PERCENT OF THE DELEGATIONS ARE NOT SATISFIED WITH THE TEXT ON TUNA, AND THAT THIS TEXT SHOULD BE RENEGOTIATED.

6. INDONESIAN REPRESENTATIVE MADE LENGTHY INTERVENTION ON ARCHIPELAGO CHAPTER. MALAYSIA AND INDONESIA AGREED ON AMENDMENTS TO ART. 119(7) AS FOLLOWS:
QUOTE: 7. IF A CERTAIN PART OF THE ARCHIPELAGIC WATERS OF AN ARCHIPELAGIC STATE LIES BETWEEN TWO PARTS OF AN IMMEDIATELY ADJACENT NEIGHBOURING STATE, ALL EXISTING RIGHTS AND ALL OTHER LEGITIMATE INTERESTS WHICH THE LATTER STATE HAS TRADITIONALLY EXERCISED IN SUCH WATERS AND ALL RIGHTS STIPULATED UNDER AGREEMENTS BETWEEN THOSE TWO STATES SHALL CONTINUE AND BE RESPECTED. UNQUOTE. INDONESIA INDICATED THAT INNOCENT PASSAGE SHOULD APPLY IN ARCHIPELAGIC WATERS NORAMLLY USED (EXISTING ROUTES) FOR NAVIGATION, NOT ALL WATERS. FURTHER, INDONESIA STATED THAT AIR ROUTES SHOULD NOT BE DISCUSSED IN LOS FORM, BUT IT THEY ARE TO BE CONSIDERED, AIR LANES SHOULD BE ABOVE SEA LANES, NOT OVER LAND, AND CIVIL AVIATION SHOULD NOT BE INCLUDED. INTERNATIONAL ORGANIZATIONS SHOULD NOT HAVE DECISION MAKING POWERS IN DEFINITION OF SEA LANES OR SEPARATION SCHEMES. INDONESIANS RECEIVED SUPPORT FROM EGYPT, TUNISIA AND SAUDI ARABIA. IRAN SUPPORTED THE INDONESIANS ON THEIR OVERFLIGHT POSITION.

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FROM LOS DEL

7. CAPE VERDE PROPOSED THAT THE EXCEPTION ON LENGTH ON BASELINES SHOULD BE 30 PERCENT. THEY WERE SUPPORTED BY TUNISIA.

8. INDIA, SUPPORTED BY SPAIN AND URUGUAY, INTERVENED TO OBJECT DIFFERENTIATION BETWEEN NATION STATE MID-OCEAN ARCHIPELAGOES AND MID-OCEAN ARCHIPELAGOES BELONGING TO A CONTINENTAL STATE, WHICH RSNT DOES NOT RECOGNIZE AS BEING SUBJECT TO ARCHIPELAGO CHAPTER. THEY WERE OPPOSED BY JAPAN, PAKISTAN AND BURMA.

9. NETHERLANDS SUBMITTED AMENDMENT TO CHAPTER ON ENCLOSED AND SEMI-ENCLOSED SEAS ON BEHALF OF EC-9:
QUOTE PROPOSED AMENDMENT:
FOR THE PURPOSE OF THIS CHAPTER, THE TERM
QUOTE ENCLOSED OR SEMI-ENCLOSED SEAS UNQUOTE MEANS
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A GULF, A BASIN OR SEA SURROUNDED BY TWO OR MORE STATES AND HAVING ONLY A NARROW OUTLET, AND ALL THE OUTLETS OF WHICH ARE SITUATED WITHIN THE TERRITORIAL SEAS OF ONE OR MORE STATES AND CONSISTING ENTIRELY OR PRIMARILY OF THE TERRITORIAL SEAS AND EXCLUSIVE ECONOMIC ZONES OF TWO OR MORE COASTAL STATES.

3RD LINE OF ARTICLE 129, DELETE:

QUOTE CONNECTED TO THE OPEN SEAS BY UNQUOTE

AND REPLACE WITH:

QUOTE HAVING ONLY UNQUOTE.

3RD LINE OF ARTICLE 129, AFTER THE WORDS:

QUOTE A NARROW OUTLET UNQUOTE

ADD:

QUOTE AND ALL THE OUTLETS OF WHICH ARE SITUATED
WITHIN THE TERRITORIAL SEAS OF ONE OR MORE STATES AND
UNQUOTE.

10. YUGOSLAVIA SUBMITTED FOLLOWING PROPOSAL ON ENCLOSED
AND SEMI-ENCLOSED SEAS:

QUOTE. NAVIGATION THROUGH OUTLETS CONNECTING ENCLOSED-
OR SEMI-ENCLOSED SEAS WITH THE OPEN SEAS

1. IN OUTLETS USED FOR INTERNATIONAL NAVIGATION CONNECTING
ENCLOSED AND SEMI-ENCLOSED SEAS WITH OPEN SEAS, FREEDOM
OF NAVIGATION AND OVERFLIGHT SHALL BE MAINTAINED FOR
ALL SHIPS AND AIRCRAFT.

2. PARAGRAPH 1 IS WITHOUT PREJUDICE TO THE PROVISIONS
ON STRAITS USED FOR INTERNATIONAL NAVIGATION CONTAINED
IN CHAPTER II. UNQUOTE.

OTHER STATES INDICATING AN INTEREST IN THE SUBJECT WERE
ROMANIA, BULGARIA, POLAND AND USSR.

11. UK, SUPPORTED BY US, PRESENTED NEW ARTICLE (ARTICLE 1 BIS)
FOR PROTECTION OF CABLES AND PIPELINES IN TERRITORIAL SEA AS
FOLLOWS:

QUOTE COASTAL STATES SHALL RESPECT EXISTING SUBMARINE
CABLES LAID BY OTHER STATES AND PASSING THROUGH THEIR
TERRITORIAL SEA WITHOUT MAKING A LAND-FALL. COASTAL
STATES SHALL PERMIT THE MAINTENANCE AND REPLACEMENT OF
SUCH CABLES AND THE INTENTION TO REPAIR OR REPLACE
THEM. UNQUOTE.

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12. US MADE INTERVENTION (SEPT.9) TO STRESS NEED
FOR COORDINATION BETWEEN COMMITTEE II AND COMMITTEE III ON ART.
20(2) AND TO EXPRESS VIEW THAT LOS WAS NOT APPROPRIATE FORUM
TO DEAL WITH TRANSITIONAL PROVISION.

13. THE P C

PROPOSED THAT WARSHIPS REQUIRED TO GET
PRIOR AUTHORIZATION OR NOTIFICATION BEFORE PASSAGE
THROUGH THE TERRITORIAL SEA. THEY WERE SUPPORTED BY
PAKISTAN, INDIA, INDONESIA, (PRIOR NOTIFICATION),
ARGENTINA, ALGERIA, NIGERIA, PHILIPPINES AND NORTH
KOREA.

14. THE PHILIPPINES AGAIN PROPOSED THAT TERRITORIAL SEA
GREATER THAN 12 MILES DUE TO HISTORICAL TITLE SHOULD BE
RECOGNIZED. ON THE ARCHIPELAGO, THEY PROPOSED DISTINGUISHING
BETWEEN WARSHIPS AND MERCHANT SHIPS, WITH CONSENT FOR
PASSAGE OF FORMER AND INNOCENT PASSAGE FOR LATTER.

THEY ALSO PROPOSED SPECIAL PROVISION FOR NUCLEAR POWERED VESSELS, VESSELS CARRYING NOXIOUS SUBSTANCES VLCC'S. THEY AGAIN WERE MOST EXTREME AND CLEARLY OUT OF MAINSTREAM OF NEGOTIATIONS.

15. ALBANIA STATED ITS POSITION THAT TERRITORIAL SEA MAY EXCEED 12 MILES, WITH NO RIGHT OF INNOCANT PASSAGE.

16. EGYPT, ON GEHALS OF THE ARAB GROUP, SUBMITTED TEXTS ON ARTS. 11, 25 BIS, AND 129 AS FOLLOWS:

QUOTE ARTICLE 11

1. THE WATERS OF THE ROADSTREADS, WHICH ARE NORMALLY USED FOR THE LOADING, UNLOADING AND ANCHORING OF SHIPS, FORM A PART OF THE INTERNAL WATERS OF THE STATE.

2. PORTS WHICH ARE USED FOR THE LOADING, UNLAODING, OF SHIPS, AND WHICH WOULD OTHERWISE BE SITUATED WHOLLY OR PARTLY OUTSIDE THE OUTER LIMIT OF THE TERRITORIAL SEA, ARE INCLUDED IN THE TERRITORIAL SEA. UNQUOTE.

ART. 11 PROPOSAL WAS SUPPORTED BY INDONESIA.

QUOTE ARTICLE 25 BIS

1. IF A SHIP EXERCISING THE RIGHT OF INNOCENT PASSAGE THROUGH THE TERRITORIAL SEA DOES NOT COMPLY WITH THE LAWS AND REGULATIONS CONCERNING THE REGULATION OF SUCH PASSAGE LIMITED OFFICIAL USE
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AND PARTICULARLY NAVIGATION, IT SHALL BE LIABLE FOR ANY DAMAGE OR LOSS CAUSED TO THE COASTAL STATE, INCLUDING ITS ENVIRONMENT AND ANY OF ITS FACILITIES, INSTALLATIONS OR OTHER PROPERTY OR TO ANY SHIPS FLYING ITS FLAG.

2. IF IN THE APPLICATION OF ITS LAWS AND REGULATIONS, A COASTAL STATE ACTS IN A MANNER CONTRARY TO THE PROVISIONS OF THESE ARTICLES AND LOSS OR DAMAGE RESULTS TO ANY FOREIGN SHIPS EXERCISING THE RIGHT OF INNOCENT PASSAGE THORUGH THE TERRITORIAL SEA, THE COASTAL STATE SHALL COMPENSATE THE OWNERS OF SUCH SHIP FOR THAT LOSS OR DAMAGE. UNQUOTE.

QUOTE ARTICLE 129

SEMI-ENCLOSED SEA, IS A GEOGRAPHICAL EXPRESSION, MEANS THE SEA THAT HAS ONE OR MORE RELATIVE NARROW OUTLET WHICH CONNECT IT TO A HIGH SEA OR ANY EXCLUSIVE ECONOMIC ZONE OF OPEN SEAS OR OCEANS, AND IS NOT DO (SIC) WIDE FOR THE APPLICATION OF ALL MARITIME ACTIVITIES MENTIONED IN THIS CONVENTION. UNQUOTE.

17. BELGIUM PROPOSED ADDING AT END OF FIRST SENTENCE OF ART. 24(3) QUOTE FOR REASONS OF SECURITY UNQUOTE.

18. NORTH KOREA PROPOSED DELETION OF ART. 7(2).
NORTH KOREANS ALSO PROPOSED THAT ART. 29 (DEFINITION OF WARSHIPS) SHOULD INCLUDE STRONGER SANCTIONS, SUCH AS QUOTE
ANY NECESSARY MEANSURES UNQUOTE. DELEGATE RAISED ISSUE

OF PUEBLO AND OCCUPATION OF THEIR COUNTRY.
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Message Attributes

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